

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

JUL 23 2010

Stephan Harris, Clerk
Cheyenne

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

GUIDEONE MUTUAL INSURANCE
COMPANY, as subrogee of its insured,
High Plains Community Church,

Plaintiff,

vs.

BETHANY MORGAN and DAN
MORGAN,

Defendants.

Civil No. _____

10CV0151-D

COMPLAINT

Plaintiff, GuideOne Mutual Insurance Company ("GuideOne"), by its attorneys Richard G. Schneebeck, Hirst Applegate, LLP, for its Complaint against Defendants Bethany Morgan and Dan Morgan, states and alleges as follows:

INTRODUCTION

This is a subrogation action brought to recover damages from a fire at a residence / parsonage owned by the High Plains Community Church in Gillette, Wyoming.

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Dan Morgan was living in the parsonage at the time of the fire. Dan Morgan's adult daughter, Bethany Morgan, negligently started the fire at issue while cooking on a barbecue grill on an exterior deck attached to the Church "Parsonage." The ensuing fire caused the Church's parsonage to sustain approximately \$190,800 in fire, smoke, and water damages. At the time of the fire, the Church maintained insurance with the GuideOne, which thereafter paid \$190,800 as the coverage for the loss. GuideOne now brings this action, pursuant to its equitable and contractual rights of subrogation, to recover the amount of the insured's loss from the Defendants.

THE PARTIES

1. GuideOne is an Iowa corporation with its home office located at 6000 Grand Avenue, West Des Moines, Iowa 50265. At all times relevant hereto, GuideOne issued a policy of insurance to the High Plains Community Church, a Wyoming religious corporation, with its principal place of worship in Gillette, Wyoming. Pursuant to the terms of its insuring agreement and equitable principles of subrogation, GuideOne is entitled to bring this action to seek recovery from Bethany Morgan and Dan Morgan individually.

2. Upon information and belief, Bethany Morgan is a resident of the state of Wyoming.

3. Upon information and belief, Dan Morgan is a resident of the state of Wyoming.

JURISDICTION AND VENUE

4. The Plaintiff is an Iowa corporation, with its principal place of business in Iowa, and the Defendants are both Wyoming residents. Jurisdiction, therefore, is proper in this court pursuant to 28 U.S.C. § 1332.

5. The amount in controversy, without interest, costs, or attorneys' fees, exceeds the amount specified by 28 U.S.C. § 1332.

6. Venue is proper in the United States District Court, District of Wyoming, as both Defendants are residents of the state of Wyoming.

FACTUAL ALLEGATIONS

7. GuideOne insures the High Plains Community Church located at 111 East Second Street in Gillette, Wyoming.

8. The High Plains Community Church owns a residence referred to as the Church's "Parsonage," which is located at 1209 Overdale, in Gillette, Wyoming 82718.

9. At all times relevant, GuideOne has issued to the High Plains Community Church a policy of insurance that provided property damage coverage for the Parsonage.

10. At all times relevant, Dan Morgan resided in the High Plains Community Church's Parsonage.

11. On 24 July 2006, Bethany Morgan was grilling on the Parsonage's back porch. A coal from the Weber grill she was escaped the confines of that grill and ignited combustible materials resulting in a fire that spread to the Parsonage.

NEGLIGENCE – BETHANY MORGAN

12. Plaintiff incorporates and realleges by reference all of the allegations contained within Paragraphs Nos. 1 through 11 above.

13. Bethany Morgan owed one or more duties to the High Plains Community Church, including a duty to use reasonable care in operating grilling equipment, in containing the hot embers inside the grill and in preventing those hot embers from escaping the confinement of the grill.

14. Bethany Morgan breached one or more duties owed to the High Plains Community Church by, among others, failing to use reasonable care in the operating the subject grilling equipment.

15. As a direct and proximate result of Bethany Morgan's negligence, Plaintiff's insured suffered damages.

NEGLIGENCE – DAN MORGAN

16. Plaintiff incorporates and realleges by reference all of the allegations contained within Paragraphs Nos. 1 through 15 above.

17. Dan Morgan owed one or more duties to the High Plains Community Church, including a duty to use reasonable care in operating grilling equipment, in

containing the hot embers inside the grill and in preventing those hot embers from escaping the confinement of the grill.

18. Dan Morgan breached one or more of the duties owed to the High Plains Community Church by, among others, failing to use reasonable care in relation to the subject grilling equipment.

19. As a direct and proximate result of Dan Morgan's negligence, Plaintiff's insured suffered damages.

WHEREFORE, Plaintiff demands judgment against Bethany Morgan and/or Dan Morgan in an amount to be proven at trial, and such other and further relief as may be just, proper, and allowable, including pre-judgment and post-judgment interest and the costs of this suit.

Dated: 23 July 2010.

GUIDEONE MUTUAL INSURANCE
COMPANY, Plaintiff

BY: 

RICHARD G. SCHNEEBECK, #5-2395

OF HIRST APPLGATE, LLP

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